

Westlaw

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R.C. § 2911.11

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Baldwin's Ohio Revised Code Annotated Currentness

Title XXIX. Crimes--Procedure (Refs & Annos)

■ Chapter 2911. Robbery, Burglary, and Trespass (Refs & Annos)

■ Burglary

→ 2911.11 Aggravated burglary

(A) No person, by force, stealth, or deception, shall trespass in an occupied structure or in a separately secured or separately occupied portion of an occupied structure, when another person other than an accomplice of the offender is present, with purpose to commit in the structure or in the separately secured or separately occupied portion of the structure any criminal offense, if any of the following apply:

- (1) The offender inflicts, or attempts or threatens to inflict physical harm on another;
- (2) The offender has a deadly weapon or dangerous ordnance on or about the offender's person or under the offender's control.

(B) Whoever violates this section is guilty of aggravated burglary, a felony of the first degree.

(C) As used in this section:

- (1) "Occupied structure" has the same meaning as in section 2909.01 of the Revised Code.
- (2) "Deadly weapon" and "dangerous ordnance" have the same meanings as in section 2923.11 of the Revised Code.

(1996 S 269, eff. 7-1-96; 1995 S 2, eff. 7-1-96; 1983 S 210, eff. 7-1-83; 1982 H 269, § 4, S 199; 1972 H 511)

HISTORICAL AND STATUTORY NOTES

Ed. Note: 2911.11 contains provisions analogous to former 2907.09, 2907.16 and 2907.17, repealed by 1972 H 511, eff. 1-1-74.

Ed. Note: Former 2911.11 repealed by 1972 H 511, eff. 1-1-74; 1953 H 1; GC 13115; see now 2913.31 and 2913.42 for provisions analogous to former 2911.11.

Pre-1953 H 1 Amendments: RS 7085

Amendment Note: 1996 S 269 deleted "as defined in section 2909.01 of the Revised Code," following "trespass in an occupied structure", inserted "other than an accomplice of the offender", and substituted "in the structure or in the separately secured or separately occupied portion of the structure" for "therein" and "if" for "when" in the introductory paragraph of division (A); deleted "as defined in section 2923.11 of the Revised Code," following "dangerous ordnance" in division (A)(2); and added divisions (C), (C)(1), and (C)(2).

Amendment Note: 1995 S 2 rewrote this section, which previously read:

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R.C. § 2911.11

"(A) No person, by force, stealth, or deception, shall trespass in an occupied structure, as defined in section 2909.01 of the Revised Code, or in a separately secured or separately occupied portion thereof, with purpose to commit therein any theft offense, as defined in section 2913.01 of the Revised Code, or any felony, when any of the following apply:

"(1) The offender inflicts, or attempts or threatens to inflict physical harm on another;

"(2) The offender has a deadly weapon or dangerous ordnance, as defined in section 2923.11 of the Revised Code, on or about his person or under his control;

"(3) The occupied structure involved is the permanent or temporary habitation of any person, in which at the time any person is present or likely to be present.

"(B) Whoever violates this section is guilty of aggravated burglary, an aggravated felony of the first degree."

LEGISLATIVE SERVICE COMMISSION**1973:**

This section defines the most serious of the three breaking and entering offenses contained in the new code. Former law contained ten separate breaking and entering offenses, seven of which have at least some elements incorporated in the new section, although none is exactly analogous to it. Under the new section, aggravated burglary is a trespass in an occupied structure, accomplished by force, stealth, or deception, for the purpose of committing a felony or stealing, when the offender is armed or attempts or threatens harm to anyone, or when the structure involved is someone's home.

Under former law, distinctions among types of breaking and entering offenses were generally predicated on one or more of three factors: whether the offense was committed in daylight or nighttime; the type of property entered; and the offender's specific reason for entering. The prime distinguishing factor among such offenses in the new code, however, is the relative potential for harm to persons.

Since aggravated burglary carries the highest degree of risk that someone may be harmed, it is the most serious of the three breaking and entering offenses in the new code. Because the risk of personal harm is emphasized in such offenses, the traditional night-day distinction is done away with, and the type of structure involved is important only insofar as it is occupied or unoccupied, or is or is not a home.

CROSS REFERENCES

Child day-care centers, disqualification from certain employment, 5104.012

Child day-care centers' owner, licensee, or administrator, disqualification from certain employment, 5104.013

Chiropractors, effect of conviction or guilty plea, 4734.99

Conspiracy, 2923.01

Corrupt activity, defined, 2923.31

County boards of mental retardation and developmental disabilities, disqualification from certain employment, 5126.28

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